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10/562,206	12/23/2005	Justin L. Namespetra	PAT 876W-2	5408
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ALLEN, CAMERON J				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,206

Applicant(s)

NAME SPETRA ET AL.

Examiner

CAMERON J. ALLEN

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-36 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 20-36 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date 3/03/2009, 7/22/2009
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 20-25 have been considered but are moot in view of the new ground(s) of rejection.

The Examiner notes that claims 26-36 have been added, claims 1-19 are canceled and 20-36 are now pending. Claims 20 and 21 have been amended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 20 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al US 2002/0185423 in further view of DiPaolo US 3,904,362.

Regarding claim 20, Boyd discloses a sanitizing container for sanitizing items, the sanitizing container for use with a sanitizing base unit, the sanitizing container comprising:

an outer container including a fluid transfer valve for removable fluid communication with the sanitizing base unit; and (0011, 0069)

an item holder for removable mating with the outer container, capable of holding items in the container for sanitation (0011) but does not disclose the use of a removable item holder.

The DiPaolo reference does disclose the use of a sanitizing container that has an inner removable holder.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Boyd reference with the DiPaolo reference by using a removable holder, since the DiPaolo reference discloses it would yield the added benefit of being able to remove the items from the fluid.

Regarding claim 26, the Boyd in view of DiPaolo reference discloses the sanitizing container of claim 20 wherein the item holder keeps the held items from

having direct contact with the bottom of the outer container. The DiPaolo reference discloses wherein the item holder keeps the held items from having direct contact with the bottom of the outer container. (Column 3 lines 4-7)

Regarding claim 27, the Boyd in view of DiPaolo reference disclose the sanitizing container of claim 20 wherein the item holder is arranged for mating with an open top of the outer container, the item holder comprising: a sidewall for mating with an inside surface of the outer container;
a lip, joined with the top of the sidewall, for mating with the open top of the outer container; and a base joined with the bottom of the sidewall and comprising a plurality of item receiving structures.

The DiPaolo reference does disclose wherein the mating with an open top of the outer container, the item holder comprising:
a sidewall for mating with an inside surface of the outer container;
a lip, joined with the top of the sidewall, for mating with the open top of the outer container; and a base joined with the bottom of the sidewall and comprising a plurality of item receiving structures. (Figure 5 and Column 3 lines 13-30)

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al US 2002/0185423 in further view of DiPaolo US 3,904,362 as applied above in further view of Dryer US 6,135,279.

Regarding claim 28, the Boyd in view of DiPaolo reference discloses the sanitizing container of claim 20 wherein the item holder is arranged for mating with an open top of the outer container, and wherein the items to be sanitized have a handle

end and a working end, but does not disclose the item holder comprising:
a center structure for mating with the open top of the outer container, the center structure having a top portion defining an opening for the handle ends of the items to be sanitized, and having a sidewall defining a plurality of openings for fluid flow in the center structure during sanitization of the items; and
a lower tray, for mating with the bottom of the center structure, for holding working ends of the items to be sanitized.

The Dryer reference does disclose the use a central post (40) structure for mating with the open top of the outer container (Figure 3), the center structure having a top portion defining an opening for the handle ends of the items to be sanitized (figure 3), and having a sidewall defining a plurality of openings for fluid flow in the center structure during sanitization of the items. (42)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Boyd in view of DiPaolo reference by using the center structure of the Dryer reference, since the Dryer reference discloses that it would yield the added benefit of being able to remove all the brushes at the same time. (Column 3 lines 38-43)

Regarding claim 29, the Boyd in view of DiPaolo in further view of Dyer reference discloses the sanitizing container of claim 28 wherein the lower tray comprises a plurality of item receiving structures for holding the working ends of the items to be sanitized. (Dryer containers 32)

Regarding claim 30, the Boyd in view of DiPaolo reference discloses the sanitizing container of claim 20 wherein the item holder is arranged for mating with an

open top of the outer container, but does not disclose the item holder comprising:
a center structure for mating with the open top of the outer container, the center structure having a top portion defining an opening for insertion of the items to be sanitized, a sidewall having an upper lip, and a base, the sidewall and the base defining a plurality of openings for fluid flow in the center structure during sanitization of the items; and a top cover for mating with the upper lip of the sidewall and closing the top of the item holder.

The Dryer reference does disclose a center structure for mating with the open top of the outer container, the center structure having a top portion defining an opening for insertion of the items to be sanitized(42), a sidewall having an upper lip, (28)and a base, the sidewall and the base defining a plurality of openings for fluid flow in the center structure during sanitization of the items(36 32); and a top cover for mating with the upper lip of the sidewall and closing the top of the item holder. (Figure 2)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Boyd in further view of DiPaolo references by using the center structure of the Dryer reference, since the Dryer reference discloses that it would yield the added benefit of being able to remove all the brushes at the same time. (Column 3 lines 38-43)

Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al as applied in claim 20 and in further view of Kasting JR. US 5,520,893 in further view of DiPaolo US 3,904,362.

Regarding claim 21, Boyd discloses an item sanitizing system comprising: a container having a fluid transfer device and a base for receiving the container in removable fluid communication with the fluid transfer device, said base comprising a purification technology for purification of water received from the container; and a water circulator for circulating water between the container and the purification technology, (Boyd 0015, 0069) but does not disclose having an item holder for holding items in the container for sanitization or for holding items in the container for sanitization, the removable item holder being distinct from, and for removable mating with, the container.

Kasting does disclose (Figure 6) the use of an instrument sterilizing pan to hold items to be sanitized. Both Boyd and Kasting disclose a system for sterilization using a pump, a recirculation lines and an ozone water sanitizing solution.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Boyd reference with the Kasting reference by adding a sterilization pan to the system, since it would yield the extra and expected benefit of holding objects to be cleaned.

The DiPaolo reference does disclose the use of a sanitizing container that has an inner removable holder. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Boyd reference with the DiPaolo reference by using a removable holder, since the DiPaolo reference discloses it would yield the added benefit of being able to remove the items from the fluid.

Regarding claim 22, Boyd in view of Kasting in further view of DiPaolo discloses the item sanitizing system according to claim 21, wherein said water circulator

comprises a pump, connections, and electronic controls. (Boyd 0069)

Regarding claim 23, Boyd in view of Kasting in further view of DiPaolo discloses the item sanitizing system of claim 22, wherein said electronic controls comprise an auto-sensing circuit which detects the presence of the filtration device on the base, activates an appropriate program, and illuminates a ready light. (Boyd 141, 142, 142)

Regarding claim 24, Boyd in view of Kasting in further view of DiPaolo discloses the item sanitizing system of claim 23, wherein said program is initiated when a user pushes a start button when said ready light is illuminated. (Boyd 0157)

Regarding claim 25, Boyd in view of Kasting in further view of DiPaolo discloses the item sanitizing system of claim 24, wherein said program comprises a treatment period controlled by time and/or concentration, said treatment period consisting of:

- a) drawing water from the lower reservoir via a pump, (0105 Boyd)
- b) pumping water from (a) through the purification technology, (0105 Boyd)
- c) directing water from (b) back into the lower reservoir; and (0069 Boyd)
- d) communicating to the user via a light and/or audible alarm indicating that the container can be removed from the base. (0159 Boyd)

Regarding claim 31, the Boyd in view of Kasting in further view of DiPaolo reference disclose the item sanitizing system of claim 21 wherein the item holder keeps the held items from having direct contact with the bottom of the container. (DiPaolo Column 3 lines 4-7)

Regarding claim 32, the Boyd in view of Kasting in further view of DiPaolo reference disclose the item sanitizing system of claim 21 wherein the item holder keeps

the held items from interfering with a flow of fluid into and out of the container via the fluid transfer device. (DiPaolo Column 3 line 13-30)

Regarding claim 33, the Boyd in view of Kasting in further view of DiPaolo reference disclose the item sanitizing system of claim 21 wherein the item holder is arranged for mating with an open top of the container, the item holder comprising: a sidewall for mating with an inside surface of the container; a lip, joined with the top of the sidewall, for mating with the open top of the container; and a base joined with the bottom of the sidewall and comprising a plurality of item receiving structures. (DiPaolo Column 2 lines 44-66 and Figure 5)

Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al as applied in claim 20 and in further view of Kasting JR. US 5,520,893 in further view of DiPaolo US 3,904,362 as applied above in further view of Dryer US 6,135,279

Regarding claim 34, the Boyd in view of Kasting in further view of DiPaolo reference disclose the item sanitizing system of claim 21 wherein the item holder is arranged for mating with an open top of the container, and wherein the items to be sanitized have a handle end and a working end, but does not disclose the item holder comprising:
a center structure for mating with the open top of the container, the center structure having a top portion defining an opening for the handle ends of the items to be

sanitized, and having a sidewall defining a plurality of openings for fluid flow in the center structure during sanitization of the items; and a lower tray, for mating with the bottom of the center structure, for holding working ends of the items to be sanitized.

The Dryer reference does disclose the use a central post (40) structure for mating with the open top of the outer container (Figure 3), the center structure having a top portion defining an opening for the handle ends of the items to be sanitized (figure 3), and having a sidewall defining a plurality of openings for fluid flow in the center structure during sanitization of the items. (42)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Boyd in view of Kasting in further view of DiPaolo references by using the center structure of the Dryer reference, since the Dryer reference discloses that it would yield the added benefit of being able to remove all the brushes at the same time. (Column 3 lines 38-43)

Regarding claim 35, the Boyd in view of Kasting in view of DiPaolo in further view of Dryer references disclose the item sanitizing system of claim 34 wherein the lower tray comprises a plurality of item receiving structures for holding the working ends of the items to be sanitized.

Regarding claim 36, the Boyd in view of Kasting in further view of DiPaolo references disclose the item sanitizing system of claim 21 wherein the item holder is arranged for mating with an open top of the container, but does not disclose the item holder comprising:

a center structure for mating with the open top of the container, the center structure

having a top portion defining an opening for insertion of the items to be sanitized, a sidewall having an upper lip, and a base, the sidewall and the base defining a plurality of openings for fluid flow in the center structure during sanitization of the items; and a top cover for mating with the upper lip of the sidewall and closing the top of the item holder.

The Dryer reference does disclose a center structure for mating with the open top of the container, the center structure having a top portion defining an opening for insertion of the items to be sanitized, a sidewall having an upper lip, and a base, the sidewall and the base defining a plurality of openings for fluid flow in the center structure during sanitization of the items; and a top cover (24) for mating with the upper lip of the sidewall and closing the top of the item holder. (Figure 3)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Boyd in view of Kasting in further view of DiPaolo references by using the center structure of the Dryer reference, since the Dryer reference discloses that it would yield the added benefit of being able to remove all the brushes at the same time. (Column 3 lines 38-43)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMERON J. ALLEN whose telephone number is (571)270-3164. The examiner can normally be reached on M-Th 9-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on 571-272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CJA

/Walter D. Griffin/
Supervisory Patent Examiner, Art Unit 1797